

REMARKS

Applicants reply to the Office Action mailed October 16, 2007 within three-months. Claims 1-8, 10-14, and 16-23 were pending in the application and the Examiner rejects claims 1-8, 10-14, and 16-23. Claims 5-8, 16, 21, and 23 have been canceled without prejudice to filing one or more claims having similar subject matter. New claims 24-29 have been added. Claims 1-4, 10-14, 17-20, 22, and 24-29 are now currently pending in the application, and Applicants respectfully request reconsideration of this application.

The Examiner rejects claims 1-8, 10-14, and 16-23 under 35 U.S.C. 102(e) as being anticipated by Zalewski et al., U.S. Patent No. 6,771,981 ("Zalewski"). The Examiner also rejects claims 1-8, 10-14, and 16-23 under 35 U.S.C. 102(e) as being anticipated by "Zalewski et al U.S.PG Pub20040030601" (Office Action, page 3). Applicants respectfully submit, however, that the first named inventor in U.S. Patent Application Pub. No. 2004/0030601 is Pond and will therefore refer to this publication as "Pond".¹ Applicants respectfully disagree with these rejections but have amended the claims in order to clarify the patentable aspects of the claims and to expedite prosecution.

Applicants respectfully submit that the amended claims are not anticipated by either Zalewski or Pond. For example, independent claim 1 recites "A method for facilitating a mobile device payment transaction at a Radio Frequency (RF) reader, comprising . . . receiving a mobile device secondary identification" (emphasis added). Similarly, amended independent claim 12 recites "A mobile payment device, comprising . . . a secondary authentication user interface configured to receive a secondary identification code [and] an account data RF transponder configured to transmit the secondary identification code" (emphasis added). Also, independent claim 17 recites "A computer-readable storage medium containing a set of instructions for a general purpose computer configured for . . . receiving a secondary end-user authentication identification via a mobile device user interface [and] transmitting the secondary end-user authentication via a RF transponder" (emphasis added).

Pond, instead, requires, "[o]nce the payment server 1407 authenticates that the customer has a valid, active account, it then needs to authenticate the customer's action. This can be done one of two ways—through a voice call utilizing an Integrated Voice Response (IVR) system or

¹ Applicants note that the disclosure in Pond includes all of the disclosure in Zalewski. Pond adds some disclosure to Zalewski, e.g., paragraphs [0084]-[0085] and [0124]-[0162].

through mobile messaging” (¶ [0147]; emphasis added). Pond distinguishes structure used for initial customer identification via “proximity reader 1403” from the structure used for this secondary authentication “through a voice call utilizing an [IVR] system or through mobile messaging” (see ¶¶ [0144], [0147]). Additionally, both Zalewski and Pond disclose that, after initial authentication, “[c]over 100 then responds to provide reader/interrogator with information such as electronic identification mobile station phone number and the like. The reader/interrogator may also send a code to a register of MCU instructing phone to go to passive mode. Since information regarding user’s mobile station phone number may be provided to the reader/interrogator, user’s mobile station may receive a Short Message Service (SMS) message at some point after RFID validation when customer is safely away from the fueling area” (Zalewski, Col. 11, Lines 49-58; Pond ¶ [0083]; emphasis added).


Therefore, neither Zalewski nor Pond anticipate independent claims 1, 12, and 17 at least because they do not disclose Applicants’ “account data RF transponder configured to transmit the secondary identification code.” For at least this reason, Applicants respectfully submit that independent claims 1, 12, and 17 are allowable over the cited references.

Dependent claims 2-4, 10-11, 13-14, 18-20, 22, and 24-29 variously depend from independent claims 1, 12, and 17, so dependent claims 2-4, 10-11, 13-14, 18-20, 22, and 24-29 are allowable over the cited references for the reasons set forth above, in addition to their own unique features.

In view of the above remarks, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner’s convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: January 8, 2008



David G. Barker
Reg. No. 58,581

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6376
Fax: 602-382-6070
Email: dbarker@swlaw.com